



February 6, 2001

SENATE BILL No. 554

DIGEST OF SB 554 (Updated February 2, 2001 10:49 am - DI kc)

Citations Affected: IC 9-13; IC 9-23.

Synopsis: Internet sales of motor vehicles. Defines "dealer" for purposes of the motor vehicle law to include a person who sells 12 or more vehicles each year over the Internet for delivery in Indiana. Requires an applicant for a dealer's license to provide the Bureau of Motor Vehicles with the name and address of the person who has control of business records located outside Indiana when the records are created by the sale of a vehicle through the use of the Internet to an Indiana resident, and to notify of any change in address within 10 days. Requires a dealer who sells a motor vehicle through the use of the Internet to deliver the motor vehicle to the customer at the place of business of the dealer or to another location chosen by the customer. Requires advertising of automobile products or services that are subject to availability to be plainly and legibly identified as such in the advertising.

Effective: July 1, 2001.

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January 23, 2001, read first time and referred to Committee on Rules and Legislative Procedure.
February 5, 2001, amended; reassigned to Committee on Commerce and Consumer Affairs.

SB 554—LS 8153/DI 13+



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February 6, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE BILL No. 554

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 9-13-2-1.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2001]: **Sec 1.5. "Advertising", for purposes of IC 9-23-3, has the**
4 **meaning set forth in IC 9-23-3-0.5.**

5 SECTION 2. IC 9-13-2-42 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 42. (a) "Dealer" means,
7 except as otherwise provided in this section, a person who sells to the
8 general public, ~~for delivery in Indiana~~ **including a person who sells**
9 **directly or indirectly by the Internet or other computer network,**
10 **at least twelve (12) vehicles each year for delivery in Indiana.** A
11 dealer must have an established place of business that meets the
12 minimum standards prescribed by the bureau under rules adopted
13 under IC 4-22-2.

14 (b) The term does not include the following:
15 (1) A receiver, trustee, or other person appointed by or acting
16 under the judgment or order of a court.
17 (2) A public officer while performing official duties.

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(3) A person who is a dealer solely because of activities as a transfer dealer.

(c) "Dealer", for purposes of IC 9-31, means a person that sells to the general public for delivery in Indiana at least six (6) boats per year.

SECTION 3. IC 9-23-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) An application for a license under this chapter must:

(1) be accompanied by the fee required under IC 9-29-8;

(2) be on a form prescribed by the bureau; and

(3) contain the information the bureau considers necessary to enable the bureau to determine fully the following information:

(A) The qualifications and eligibility of the applicant to receive the license.

(B) The location of each of the applicant's places of business in Indiana.

(C) The ability of the applicant to conduct properly the business for which the application is submitted.

(b) An application for a license as a dealer must show whether the applicant proposes to sell new or used motor vehicles, or both.

(c) **An applicant who proposes to use the Internet or other computer network to facilitate the sale of motor vehicles to customers shall provide the bureau with the name, address, and telephone number of the person who has control of business records located outside the state when the records will be created by the transaction. The bureau may not issue a license to a dealer who transacts business in this manner who does not have an established place of business in Indiana.**

(d) This subsection applies to an application for a license as a dealer in a city having a population of more than one hundred ten thousand (110,000) but less than one hundred twenty thousand (120,000). The application must include an affidavit from:

(1) the person charged with enforcing a zoning ordinance described in this subsection; or

(2) the zoning enforcement officer under IC 36-7-4, if one exists; who has jurisdiction over the real property where the applicant wants to operate as a dealer. The affidavit must state that the proposed location is zoned for the operation of a dealer's establishment. The applicant may file the affidavit at any time after the filing of the application. However, the bureau may not issue a license until the applicant files the affidavit.

SECTION 4. IC 9-23-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) The license issued to a factory

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branch, a distributor branch, an automobile auctioneer, a transfer dealer, or a dealer under this chapter must specify the location of each place of business and shall be conspicuously displayed at each business location.

(b) If a business name or location is changed, the holder shall notify the bureau within ten (10) days and remit the fee required under IC 9-29-8. The bureau shall endorse that change on the license if the bureau determines that the change is not subject to other provisions of this article.

(c) **A dealer who uses the Internet or other computer network to facilitate the sale of motor vehicles as set forth in section 2(c) of this chapter shall notify the bureau within ten (10) days upon any change in the name, address, or telephone number of business records located outside Indiana that have been created in transactions made in Indiana by the dealer. A report made under this subsection is not subject to the fee required under IC 9-29-8-5.**

(d) This subsection applies to a dealer in a city having a population of more than one hundred ten thousand (110,000) but less than one hundred twenty thousand (120,000). A dealer who wants to change a location must submit to the bureau an application for approval of the change. The application must be accompanied by an affidavit from:

(1) the person charged with enforcing a zoning ordinance described in this subsection; or

(2) the zoning enforcement officer under IC 36-7-4, if one exists; who has jurisdiction over the real property where the applicant wants to operate as a dealer. The affidavit must state that the proposed location is zoned for the operation of a dealer's establishment. The bureau may not approve a change of location or endorse a change of location on the dealer's license until the dealer provides the affidavit.

~~(d)~~ (e) For the purpose of this section, an offsite license issued under section 7 of this chapter does not constitute a change of location.

SECTION 5. IC 9-23-2-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 15. A dealer who sells a motor vehicle through the use of the Internet or other computer network shall deliver the motor vehicle to the customer at the place of business of the dealer or to another location chosen by the customer.**

SECTION 6. IC 9-23-3-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 0.5. As used in this chapter, "advertising" means any oral, written, pictorial, or graphic expression of a message made by a dealer to the public in connection with the solicitation of business**



1 or services. The term includes expressions contained in
2 newspapers, magazines, direct mail, or Internet websites and on
3 radio or television.

4 SECTION 7. IC 9-23-3-19 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 19. (a) It is an unfair
6 practice for an automobile auctioneer, a wholesale dealer, a transfer
7 dealer, or a broker, in connection with the auctioneer's, dealer's, or
8 broker's business, to use false, deceptive, or misleading advertising or
9 to engage in deceptive acts or practices.

10 (b) Dealer advertising of products or services that are subject to
11 availability must be plainly and legibly identified as such in the
12 advertising.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 554, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Commerce and Consumer Affairs.

(Reference is to SB 554 as introduced.)

GARTON, Chairperson

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